

CHAPTER 7

PRESENTENCE INVESTIGATION REPORTS AND SENTENCING STANDARDS — MENTAL HEALTH AND SUBSTANCE ABUSE HISTORY

S.F. 259

AN ACT relating to mental health and substance abuse histories conducted in a presentence investigation report and the standards for release on probation in a criminal proceeding.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 901.3, subsection 1, Code 2011, is amended to read as follows:

1. The defendant's characteristics, family and financial circumstances, needs, and potentialities, ~~including the presence of any previously diagnosed mental disorder.~~

Sec. 2. Section 901.3, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Whether the defendant has a history of mental health or substance abuse problems. If so, the investigator shall inquire into the treatment options available in both the community of the defendant and the correctional system.

Sec. 3. Section 901.3, subsection 7, unnumbered paragraph 2, Code 2011, is amended to read as follows:

All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. The originating source of specific mental health or substance abuse information including the histories, treatment, and use of medications shall not be released to the presentence investigator unless the defendant authorizes the release of such information. If the defendant refuses to release the information, the presentence investigator may note the defendant's refusal to release mental health or substance abuse information in the presentence investigation report and rely upon other mental health or substance abuse information available to the presentence investigator. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of the defendant's personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

Sec. 4. Section 907.5, Code 2011, is amended to read as follows:

907.5 Standards for release on probation — written reasons.

Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination, the court shall consider the age of the defendant; the defendant's prior record of convictions and prior record of deferments of judgment if any; the defendant's employment circumstances; the defendant's family circumstances; the defendant's mental health and substance abuse history and treatment options available in the community and the correctional system; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

Approved March 30, 2011